

Honolulu, Hawaii

MAR 27 2015

RE: H.B. No. 134  
H.D. 1  
S.D. 1

Honorable Donna Mercado Kim  
President of the Senate  
Twenty-Eighth State Legislature  
Regular Session of 2015  
State of Hawaii

Madam:

Your Committees on Transportation and Public Safety,  
Intergovernmental and Military Affairs, to which was referred H.B.  
No. 134, H.D. 1, entitled:

"A BILL FOR AN ACT RELATING TO TAXATION,"

beg leave to report as follows:

The purpose and intent of this measure is to address the  
county surcharge on state tax.

More specifically, this measure:

- (1) Repeals the existing authority of the counties to levy a county surcharge on state tax pursuant to Act 247, Session Laws of Hawaii 2005, on December 31, 2015;
- (2) Authorizes the counties to adopt county surcharges on the state general excise and use taxes at a maximum rate of one-quarter of one percent, beginning January 1, 2017; provided that any county seeking to adopt a surcharge must do so pursuant to an ordinance adopted by December 31, 2015;
- (3) Changes the percentage of county surcharge revenues that is retained by the Director of Finance to reimburse the State for the administration of the county surcharge to an unspecified percentage;



- (4) Specifies that a county surcharge on state tax adopted by a county with a population greater than five hundred thousand shall be used only for:
  - (A) Capital costs of a locally preferred alternative for a mass transit project; and
  - (B) Expenses in complying with the Americans with Disabilities Act of 1990; and
- (5) Provides an unspecified repeal date for any county ordinances adopting a county surcharge on state tax adopted in accordance with this measure.

Your Committees received testimony in support of this measure from the Mayor of the City and County of Honolulu; the Mayor of the County of Kauai; the Mayor of the County of Maui; a member of the Honolulu City Council; Honolulu Authority for Rapid Transportation; The Chamber of Commerce of Hawaii; General Contractors Association of Hawaii; Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO; Hawaii Laborers Union, Local 368; Hawaii Laborers-Employers Cooperation and Education Trust; Hawaii Operating Engineers Industry Stabilization Fund; Hawaii Regional Council of Carpenters; Kapolei Chamber of Commerce; PRP; West Oahu Economic Development Association; and one individual.

Your Committees received testimony in opposition to this measure from TimeOut Honolulu Rail and twenty-five individuals.

Your Committees received comments on this measure from the Department of Budget and Finance; Department of Taxation; two members of the Kauai County Council; Grassroot Institute of Hawaii; Hawaii Construction Alliance; Kanehili Cultural Hui; Land Use Research Foundation of Hawaii; Magna Force, Inc.; Tax Foundation of Hawaii; and three individuals.

Your Committees find that Act 247, Session Laws of Hawaii 2005, authorized the counties to adopt a county surcharge on state general excise and use taxes, at a maximum rate of one-half of one percent, to be effective until December 31, 2022. In counties with a population of greater than five hundred thousand, the surcharge would be used to provide a funding source for the operating or capital costs of a locally preferred alternative for a mass transit project, while in other counties, the surcharge



would be used for public transportation. In accordance with Act 247, Session Laws of Hawaii 2005, the City and County of Honolulu was the only county to adopt a surcharge on state tax, which is currently being used to fund a rail transit project.

Your Committees also find that the transit agency overseeing the rail transit project has experienced financial difficulties that call into question its ability to complete the project prior to December 31, 2022. Your Committees believe that a five-year extension of the county surcharge on state tax should provide the transit agency with sufficient time and resources to complete the current rail transit project. Your Committees also believe that, once complete, the rail transit project should be extended to provide service to the University of Hawaii at Manoa and West Kapolei. These additional transit routes should be completed within a ten-year period per transit route.

Your Committees have amended this measure by replacing its entire contents with language that:

- (1) Extends the existing county surcharge on state tax until December 31, 2027, with the opportunity for the Legislature to extend the county surcharge on state tax in two, ten-year increments, until no later than December 31, 2047;
- (2) Re-opens the opportunity for all counties to adopt an ordinance to establish a county surcharge on state tax, from July 1, 2015, to December 31, 2015;
- (3) Provides that, for a county with a rail transit project funded by a county surcharge on state tax:
  - (A) Prior to the expiration of the initial extension of the county surcharge on state tax to December 31, 2027, the Legislature may choose to extend the county surcharge on state tax up to an additional twenty years, in ten-year increments, through the adoption of concurrent resolutions; provided that each ten-year extension of the county surcharge on state tax shall be used to fund additional transit routes to the University of Hawaii at Manoa and West Kapolei, respectively; and



- (B) Prior to the introduction of a concurrent resolution to extend the county surcharge on state tax, for each ten-year extension:
- (i) The transit agency shall obtain all necessary state and federal environmental clearances for the applicable additional transit route for the rail transit project;
  - (ii) The transit agency shall have an updated financial plan reviewed and approved by the appropriate county council;
  - (iii) The transit agency shall have an updated preliminary engineering costs estimate reviewed and approved by the appropriate county council;
  - (iv) The Auditor shall have completed a financial and management audit of the transit agency; and
  - (v) Any other requirement that the Legislature, by law, deems appropriate shall be completed; and
- (4) Provides that, for other counties without a rail project, prior to the introduction of a concurrent resolution to extend the county surcharge on state tax, for each ten-year extension, the appropriate county council shall adopt a resolution requesting the extension, which shall include information and a financial plan on how the surcharge revenues will be used over the requested extension period.

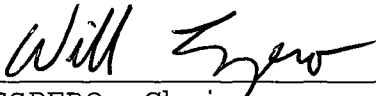
Your Committees note that they initially considered amending this measure to allow counties without a rail project to use the revenues from a county surcharge on state tax for any purpose. However, due to concerns that such a provision could be deemed as special legislation that could potentially pose a constitutional problem, your Committees ultimately decided to forego the inclusion of such an amendment at this time.

As affirmed by the records of votes of the members of your Committees on Transportation and Public Safety, Intergovernmental and Military Affairs that are attached to this report, your



Committees are in accord with the intent and purpose of H.B. No. 134, H.D. 1, as amended herein, and recommend that it pass Second Reading in the form attached hereto as H.B. No. 134, H.D. 1, S.D. 1, and be referred to the Committee on Ways and Means.

Respectfully submitted on  
behalf of the members of the  
Committees on Transportation  
and Public Safety,  
Intergovernmental and Military  
Affairs,



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WILL ESPERO, Chair

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CLARENCE K. NISHIHARA, Chair

The Senate  
Twenty-Eighth Legislature  
State of Hawai'i

**Record of Votes**  
**Committee on Transportation**  
**TRA**

Bill / Resolution No.:* <b>HB134 HD1</b>	Committee Referral: <b>TRA/PSM, WAM</b>	Date: <b>3/19/15</b>		
<input type="checkbox"/> The Committee is reconsidering its previous decision on this measure. If so, then the previous decision was to: _____				
The Recommendation is: <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="text-align: center;"><input type="checkbox"/> Pass, unamended 2312</div> <div style="text-align: center;"><input checked="" type="checkbox"/> Pass, with amendments 2311</div> <div style="text-align: center;"><input type="checkbox"/> Hold 2310</div> <div style="text-align: center;"><input type="checkbox"/> Recommit 2313</div> </div>				
<b>Members</b>	<b>Aye</b>	<b>Aye (WR)</b>	<b>Nay</b>	<b>Excused</b>
NISHIHARA, Clarence K. (C)	✓			
HARIMOTO, Breene (VC)	✓			
DELA CRUZ, Donovan M.	✓			
ENGLISH, J. Kalani				✓
ESPERO, Will	✓			
INOUE, Lorraine R.	✓			
KIDANI, Michelle N.	✓			
KOUCHI, Ronald D.	✓			
SLOM, Sam			✓	
<b>TOTAL</b>	<b>7</b>		<b>1</b>	<b>1</b>
Recommendation: <div style="display: flex; justify-content: space-around; margin-top: 5px;"> <input checked="" type="checkbox"/> Adopted           <input type="checkbox"/> Not Adopted         </div>				
Chair's or Designee's Signature: 				
<b>Distribution:</b> <div style="display: flex; justify-content: space-between; margin-top: 5px;"> <div style="text-align: center;">Original File with Committee Report</div> <div style="text-align: center;">Yellow Clerk's Office</div> <div style="text-align: center;">Pink Drafting Agency</div> <div style="text-align: center;">Goldenrod Committee File Copy</div> </div>				

**\*Only one measure per Record of Votes**

**Record of Votes**  
**Committee on Public Safety, Intergovernmental and Military Affairs**  
**PSM**

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